

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
ADMINISTRATIVE SETTLEMENT WITH CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD FOR
ALLEGED DISCHARGE VIOLATIONS

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WHEREAS, the California Water Code Section 13385 allows the California Regional Water Quality Control Board (Board) to impose administrative civil liabilities (fines) for each discharge violation that qualified for a Mandatory Minimum Penalty (MMP); and

WHEREAS, on May 13, 2009, the City of Lodi received a draft Administrative Civil Liability Complaint (ACLC) from the Board outlining alleged MMP's for non-serious discharge violations that were not addressed in complaint R5-2008-0562 (which covered violations between January 1, 2000 and December 31, 2007) plus violations that occurred between January 1, 2008 and March 31, 2009. The purported violations are associated with operational upsets, sampling errors, coliform limitation exceedences, and other minor issues; and

WHEREAS, on June 15, 2009, the City responded to the Draft ACLC agreeing with the alleged violations and, at Council direction, requested the Board consider the Statute of Limitations pursuant to Federal Clean Water Act (CWA) and the California Code of Civil Procedure, Section 338(i). In the July 16, 2009 ACLC, the Board responds the Statute of Limitations in the Clean Water Act does not apply to this type of administrative proceeding because it applies only to actions by the Federal Government. Additionally, the administrative action falls outside the scope of California Code of Civil Procedure, Section 338(i) because it only applies to time limits on civil suits in the courts; and

WHEREAS, the California Water Code Section 13385 allows the Board to impose administrative civil liabilities (fines) for each discharge violation that qualifies for an MMP. The current MMP for both serious and non-serious violations is \$3,000 per occurrence. Staff recommends the City pay the fine of \$21,000.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize payment for the alleged civil liability of \$21,000 to the California Regional Water Quality Control Board not previously addressed in Complaint R5-2008-0562 (Violations 6, 18-20) plus violations which occurred from January 1, 2008 through March 31, 2009.

Dated: August 19, 2009

I hereby certify that Resolution No. 2009-115 was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 19, 2009, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Johnson, Katzakian, Mounce, and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk